11.

REMARKS

OF

GEORGE P. MARSH,

OF VERMONT,

ON SLAVERY IN THE TERRITORIES

OF

New Mexico, California and Oregon;

Delivered in the House of Representatives, August 3d, 1848.

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REMARKS.

Mr. Marsh said:—That throughout the debate on this important subject, it had been assumed, that slavery had neither a legal nor an actual existence in Oregon, or the territory acquired by the late Mexican Treaty. He was not sure that this opinion was well founded, and he proposed to show, that it was matter of doubt, whether slavery had ever been abolished in Oregon, California or New Mexico, by any legislation which our courts of law would recognize as valid, and he would thence argue the necessity of a positive prohibition of that institution by Congress. It was too notorious to require historical proof, that slavery was tolerated, and actually existed throughout Spanish America, until the separation of those provinces from the Spanish crown, and of course it might now lawfully exist in all the territory acquired from Mexico or Spain, unless it had been legally abolished, by express legislation, or by operation of law, as a necessary result of the transfer of that territory to the United States.

Slavery, said Mr. Marsh, was introduced into all the foreign possessions of the Spanish crown about the commencement of the sixteenth century, at a period when it was tolerated in almost every country where the civil law was in force; and though the number of slaves in Mexico did not exceed ten thousand, in the year 1800, yet the institution was neither legally nor practically extinct, at the time of the Mexican Revolution.

It had been asserted, that slavery was prohibited by the Mexican Federal constitution of 1824. This was an error, and Mr. Marsh referred to that instrument to show, that so far from being abolished, it was actually recognized by the constitution of 1824, which contained the following provision, borrowed no doubt from our constitution: "Every state is bound to deliver "up fugitives from other states to the person "who justly demands them, or to compel them "in some other way to satisfy the party interested." The phraseology had been altered from the corresponding provision in our constitution, in order to embrace, not technical slavery alone, but that barbarous relic of the ancient Roman law, *peonage*, or the servitude of an insolvent debtor to his creditor, as existing by the laws of Mexico.

The error, so far as it was a misapprehension, and not a misrepresentation, arose from the fact, that the constitution of the *several States* of the Mexican confederacy did in fact, in general at least, abolish slavery either immediately or prospectively, and Mr. Marsh cited the provisions of several of those constitutions to that purport, and among others, that of the joint state of Texand Coahuila, adopted in 1827, which ordains as follows:

"In this state none is born a slave after the "promulgation of this constitution at the capital "of each district; and after six months, the in-"troduction of slaves is permitted under no pre-"text whatsoever."

But, said Mr. Marsh, New Mexico and California never were *states* of the confederacy, but *territories*, without a provincial legislature, the government of the former being purely military, and that of the latter a politico-religious organization. It was not satisfactorily shewn, that the Mexican government had ever, in a constitutional way, attempted the abolition of slavery in those territories, nor was it clear that Congress, or any branch of the federal government, had the power to interfere with the rights of property in the territories. The constitution of 1824 gave Congress power "to enact laws and "decrees for the regulation of the internal ad-"ministration of the territories."

These terms were very different from those defining the power of *our* Congress over the territories. Did they authorize the Mexican Congress to do anything more than prescribe the form of government for the territories? This, in the opinion of Mr. Marsh, was at least doubtful.

But it had been said, that President Guerrero, who had been made Dictator at the time of the Spanish invasion under Barragan in 1829, had

abolished slavery throughout the Republic. It was a sufficient answer to this, to say that Congress had no constitutional authority to confer the alleged extraordinary powers upon the President, and his dictatorship was consequently a mere military usurpation; but although the decree of Guerrero recited, that he had been invested with extraordinary powers, no act of Congress granting such powers had been produced. On the contrary, it did appear, that in July 1829, two months only before the date of the decree in question, the Mexican Senate, by a decided majority, refused its assent to a bill which had passed the lower House, conferring extraordinary powers on the President for the term of five months.

In 1835, said Mr. Marsh, the federal constitution of Mexico was overthrown, not by the constitutional process of amendment, but by violence; and a plan of government, creating a *centralized*, instead of a *federal* republic, abolishing the state legislatures, and reducing the states themselves to departments, was promulgated.—Mr. Marsh had not been able to find a copy of this plan of government, but it did not appear, from the abstract of it given by Muhlenfordt, to have contained any provision relative to slavery. It had been said, that the Congress acting under this new plan of government had passed a law in 1837 abolishing slavery throughout the Republic, and providing for the compensation of the master; but whether Congress had power to pass such an act, under the new constitution, and whether that instrument ought to be held legally to supercede the constitution of 1824, were questions which we had not the means of determining.

It must be remembered, said Mr. Marsh, that publicists and jurists are guided by very different principles in the determination of questions of this nature. Politically, and with reference to other nations, the government *de facto* is recognized by statesmen, but a court of justice might adjudge, that as between the subjects and the government, the acts of the latter had no validity whatever, and therefore, though a treaty made by us with the government actually in power might be binding, it by no means followed that our courts would sustain laws, in derogation of the rights of property, enacted by any of the series of usurpations with which Mexico had been cursed.

Doubtless it was true that the law had been generally acquiesced in, at least in the *states*; that it had been so universally, in the *territories* was not yet proved, but there was every reason to believe, that slavery existed in fact, to but a very limited extent, if at all, in any part of the Mexican republic. What the effect of such acquiescence in a law not perhaps originally binding might be, Mr. Marsh would not undertake to say, but he was unwilling to risk anything on such a question.

In regard to Oregon, Mr. M. said, that persons familiar with the discussions relative to our rights to that territory would remember, that upon full debate, and especiallly after the able speech of a distinguished Senator from New York, (Mr. Dix) it was generally agreed, that the title by which we must stand or fall was that derived from Spain by the treaty of 1819. In Oregon, then, considered as a part of Spanish America, Slavery legally existed, at the time of the transfer to the United States. It would not be admitted by Southern gentlemen, that Slavery was abolished by the change of sovereignty. On the contrary, they insisted that the range of Slavery was *extended*, by annexing to this confederacy territory before free, in virtue of the alledged right of every American citizen to migrate thither, carrying with him his moveable *property*, and personal rights to property. Slavery, then, said Mr. M., it will be contended, may now be legally introduced into Oregon, unless prohibited by law. It was urged, that the provisional government organized by the people of Oregon had adopted the great feature of the ordinance of 1787, but when, in what form, and under what sanctions? On this subject, we are by no means fully enlightened, and Mr. M. had the authority of a gentleman, who had twice visited Oregon, and resided there for many months, for saying that, in spite of the ordinance of the provisional government, both Africans and Sandwich Islanders are at this hour, to some extent, held in Slavery in that territory.

It might, therefore, and would be, contended, said Mr. M., that Slavery might be lawfully reintroduced throughout the whole of those vast districts where it had altogether, or with very trifling exceptions, ceased to exist, upon two grounds: First, that Slavery having been permitted in Oregon, California, and New Mexico, while provinces of Spain, and having never been legally abolished, in contemplation of law still exists in those territories; and secondly, that though Slavery may have been abolished by Mexico, yet American Slaveholders may now revive it, by removing to the territories and carrying their Slaves with them.

To the latter of these propositions Mr. M. said he could by no means assent, though aware that much better lawyers than himself had maintained the affirmative, and as to the former, while he was not prepared to deny what he hoped would prove true, that Slavery, namely, had been legally abolished throughout both the States and the Territories of Mexico, yet he must insist

that we were acting without any sufficient warrant, in assuming such to be the fact.

Mr. Marsh continued as follows:—It is, then, matter of grave doubt, whether the effect of the acquisition of New Mexico, California, and Oregon is not the extension of Christian American Slavery through all those wide provinces. How shall this doubt be solved? Two modes are proposed. The one is to cut this gordian knot by the sword of Congressional legislation, the other is to refer the question, as a matter of law, to the determination of judicial tribunals. The first method proposes the abolition of Slavery, if actually, or in contemplation of law, now existent in these territories, and its prohibition, if now non-existent; the other repudiates the interference of Congress, and avows the purpose of tolerating Slavery wherever it now exists, or can be introduced without a violation of positive prohibitory law. The advocates of the former plan seek to restrict Slavery, by adopting the principles of the ordinance of 1787; the action of those of the latter, tends to spread it, through the operation of the Compromise Bill lately reported to the Senate of the United States, over immense regions where it now exists, if indeed at all, only as a legal fiction.

I shall first say a word in reference to the expediency and the safety of submitting this great question to adjudication by courts of law. I may safely assume, that no intelligent lawyer, certainly no Northern lawyer, would be content to leave this point to be determined, in the last resort, by the local tribunals; yet the bill pressed by some of its friends with hot and indecent haste, in order that it might be acted upon before public sentiment should be roused, and the public will expressed—a bill framed, too, by lawyers presumably not ignorant of the very recent decision of the Supreme Court of the United States in Barry's case—contained, as originally reported, no effectual provision for the removal of the question to the Supreme Court. It is true, that an amendment for that purpose was finally adopted, but the negative votes of some, and the silence of other friends of the bill, upon this and other amendments designed to give freedom an equal chance with slavery, indicate plainly enough, that its framers had not specially at heart the promotion of the cause of human liberty by the legislative or judicial action of this republic.*

But suppose all obstacles, whether technical or practical, to the fair presentation of the question to the Supreme Court, to be removed; is that court a fit tribunal for the determination of a great political question like this? I am far from desiring to disparage the impartiality or the ability of a tribunal distinguished for the possession of every judicial excellence, and which I hold in the highest reverence as the great bulwark of our constitutional liberties. Its pre-eminent ability is recognised by the universal voice

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* Upon the day of the passage of the Compromise Bill by the Senate, the following amendments, among others were offered,

By Mr. Baldwin, a Whig Senator from Connecticut:

And be it further enacted, That it shall be the duty of the attorneys for said Territories, respectively, on the complaint of any person held in involuntary servitude therein, to make application in his behalf, in due form of law, to the court next thereafter to be holden in said Territory, for a writ of habeas corpus, to be directed to the person so holding such applicant in service, as aforesaid, and to pursue all needful measures in his behalf; and if the decision of such court shall be adverse to such application, or if, in the return of the writ, relief shall be denied to the applicant on the ground that he is a slave held in servitude in said Territory, said attorney shall cause an appeal to be taken therefrom; and the record of all the proceedings in the case to be transmitted to the Supreme Court of the United States, as soon as may be; and to give notice thereof to the Attorney General of the United States, who shall prosecute the same before said court, who shall proceed to hear and determine the same at the first term thereof.

This amendment, the object of which was to enable the slave, who could scarcely be supposed to possess the means of litigating the issue, to test the question of his right to freedom, at the expense of the Government of the United States, was defeated by the following vote:—

YEAS—Messrs. Allen, Baldwin, Benton, Corwin, Dayton, Dix, Dodge, Felch, Greene, Hale, Hamlin, Miller, Niles, Upham and Walker.—15.

NAYS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Bright, Butler, Calhoun, Clayton, Davis of Mississippi, Dickinson, Downs, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Metcalfe, Phelps, Rusk, Sebastian, Sprance, Sturgeon, Turney and Underwood.—31.

By Mr. Clarke, a Whig Senator from R. Island:

Provided, however, that no law repealing the act of the provisional government of said Territory [of Oregon] prohibiting slavery or involuntary servitude therein, shall be valid until the same shall be approved by Congress.

The yeas and nays were as follows:—

YEAS—Messrs. Allen, Baldwin, Benton, Bradbury, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Miller, Niles, Upham and Walker.—19.

NAYS—Messrs. Atchison, Atherton, Badger, Bell, Berrien, Borland, Breese, Bright Butler, Calhoun, Clayton, Davis of Mississippi, Dickinson, Douglass, Downs, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Georgia, King, Lewis, Mason, Metcalfe, Phelps, Rusk, Sebastian, Sturgeon, Turney, Underwood, Westcott and Yulee.—33.

By Mr. Davis, a Whig Senator from Massachusetts:

That so much of the 6th article of the ordinance of the 13th July, 1787, as is contained in the following words, to wit: "There shall be neither slavery nor involuntary servitude in the said Territory otherwise

of the legal profession, and its stern impartiality has been signally attested by its decisions in the great cases of the Amistad negroes, and Prigg vs. Pennsylvania. But it is precisely because of my reverence for that court, and my exalted estimate of its value as a conservative element in our system, that I would not impose upon it the painful and dangerous obligation—the plenum opus aleæ—of determining so weighty and so delicate a question as this. We should hazard not its impartiality and its high moral influence only, but its constitution, and even its existence.

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than in punishment of crimes where of the party shall have been duly convicted," shall be and remain in force within the Territory of Oregon.

The amendment was lost by the following vote:—

YEAS—Messrs. Allen, Atherton, Baldwin, Benton, Bradbury, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Miller, Niles, Spruance, Upham and Walker.—21.

NAYS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Breese, Bright, Butler, Calhoun, Clayton, Davis of Mississippi, Dickinson, Douglass, Downs, Foote, Hannegan, Houston, Hunter, Johnson of Md., Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Metcalfe, Rusk, Sebastian, Sturgeon, Turney, Underwood, Westcott and Yulee.—33.

By Mr. Johnson, a Whig Senator from Maryland:

An amendment, providing for a writ of appeal from the Territorial to the Supreme Court, "upon any writ of habeas corpus involving the question of personal freedom."

YEAS—Messrs. Allen, Atherton, Badger, Berrien, Bradbury, Clarke, Clayton, Corwin, Davis of Mass., Dayton, Dix, Dodge, Felch, Fitzgerald, Greene, Hale, Hamlin, Houston, Johnson of Maryland, Johnson o Louisiana, King, Mangum, Metcalfe, Miller, Niles, Phelps, Rusk, Spruance, Sturgeon, Upham, and Walker.—31.

NAYS—Messrs. Atchison, Benton, Borland, Bright, Butler, Calhoun, Davis of Miss., Dickinson, Downs, Foote, Hannegan, Hunter, Johnson of Georg., Lewis, Mason, Sebastian, Turney, Westcott and Yulee.—19.

Upod the passage of the bill the vote was as follows:—

YEAS—Northern Whigs, Mr Phelps.

Southern Whigs—Messrs Berrien, Clayton, Johnson of Maryland, Johnson of La., Mangum, Spruance.—6·

Northern Democrats—Messrs. Atherton, Breese, Bright, Dickinson, Douglass, Hannegan, Sturgeon—7.

Southern Democrats—Messrs. Atchison, Benton, Borland, Butler, Calhoun, Davis of Mississippi, Downs, Foote, Houston, Johnson of Ga., King, Lewis, Mason, Rusk, Sabastian, Turney, Westcott, Yulee—19. 23 in all.

NAYS—Northern Whigs; Messrs. Baldwin, Clarke, Corwin, Davis of Massachusettes, Dayton, Greene, Miller, Upham.—8.

Southern Whigs—Messrs. Badger, Bell, Metcalfe, and Underwood.—4.

Northern Democrats—Messrs. Allen, Bradbury, Dix, Dodge, Field, Fitzgerald, Hamlin, Niles and Walker.—9.

Southern Democrats—None.

Independent—Mr. Hale.—1.

During the long period of the pendency of this question, it would be incessantly exposed to every adverse influence. Local sympathies, long cherished prejudices, the predilections of party, the known wishes of the administration, and of the national legislature, would all conspire to bias the decision, intervening vacancies would be filled with reference to the supposed, perhaps even pledged, opinion of the candidate upon this one question, and when finally the decision should be promulgated, the court itself would become, with the defeated party, the object of a hostility as deep-rooted, as persevering, as widely diffused, as rancorous, as are at this moment the feelings and the prejudices of the parties now arrayed against each other upon this great issue. Could a tribunal which relies for its support upon moral force and public opinion alone, awes not by lictor and fasces, enforces its decrees by no armed satellites, dispenses no patronage and is sustained by no executive power, long withstand the malignant influence, which would thus be brought to bear upon it?

And what would be the condition of things in the territories meanwhile? The issue cannot be made and determined in California or New Mexico, removed to the Supreme Court, and there heard and adjudged, in less than three or four years. In that space of time, the territories would be filled up with slaves and slaveholders, and they would probably be ready for admission into the Union, as states with constitutions tolerating slavery, before the Supreme Court would be prepared to pronounce a decree, which if happily favorable to the cause of freedom, would come, forever, too late. But it has been intimated by a gentleman from Alabama (Mr. Hilliard), that the present introduction of slavery into the territories is practically impossible, because there is no law in being there to enforce the obedience of the slave. Sir, there is upon this earth but one law, by which man, in spite of the law of nature and of God, holds his fellow-man in bondage—the law of *force*, moral or physical. Does slavery in the southern states appeal for its support to the moral sense of the unlettered and degraded African? Is it reverence for the majesty of the law, considered as the expression of a nation's will, that binds the arm of the slave, in those communities where the same statute-book makes it a crime for the master to enlighten, by teaching, the immortal mind of the servant by the sweat of whose brow he lives, and punishes with DEATH the slave who, in obedience to the first law of nature, raises his hand against a white, in even the just defence of his person, his wife, or his child? No, sir; the authority of the master is sustained alone by the fear of brute violence, or the awe of superior intelligence. To these the slaveholder could ap-

peal as successfully in California as in Carolina, and in case we are again cursed with a northern executive with southern principles, the troops that Mr. Polk, without waiting for Congress to make appropriations for carrying the late treaty into effect, and probably with an eye to this very contingency, is now sending to the new territory, will be employed to put down any servile insurrection, or manifestation of popular displeasure, that may threaten the peace and security of the emigrant slaveholder. But if there be no law for sustaining slavery in New Mexico and California while the question is pending before the judiciary, the Compromise Bill has effectually secured the title of the master, by forbidding the territorial legislature to pass any law whatever on the subject of slavery. They cannot emancipate the slave, they can enact no statute for his protection against the cruelty of his owner, they can lend him no aid in establishing his right to freedom. Under these circumstances, how could the slave employ or reward his counsel, how could he collect his witnesses, and what would be his protection against the resentment of his master, irritated by his impotent efforts to assert his rights to his birth-right, liberty? It was found an easy matter to import slaves into Texas, in *spite* of prohibitory law; will it be more difficult to introduce them into New Mexico in the absence of all law?

I spoke just now of slavery as existing in defiance of the law of God. Let me not be misunderstood. I sit not in judgment to condemn my fellow christians, who were born and reared in communities where slavery existed for generations before their own age, and is incorporated, as a supposed inseparable element, in all their domestic traditions, their historical recollections, their civil institutions. I speak not of individual cases, but of slavery as a system deliberately adopted, continued without overruling necessity, or voluntarily extended. I agree that both the opinions and the feelings of southern men on this delicate question are entitled to great consideration. I respect their opinions, because their better opportunities for observation give them a more intimate knowledge of the social, moral, and economical bearings of the system, than a stranger can possibly acquire, and I can conceive that they may be in some degree reconciled to the undeniable evils of slavery by the perception of compensations, inappreciable by Northern men, by which a wise and beneficent Providence, (as in other cases of great and widely diffused wrong), mitigates those to northern apprehension so unmixed evils. I know moreover, that some Southern men, who deplore and acknowledge the wrong and the mischief in its full extent, see, or think they see, in every scheme of abolition yet proposed, dangers to the best interests of both races so certain and so appalling, that they believe it better and wiser with a "masterly inactivity" to look to the interposition of Providence alone for relief, than to appeal to any human counsel, however specious. I have, too, a great respect for the prejudices of birth and education, and for the feelings founded on them, knowing, as long observation of the world has taught me, that no man can wholly renounce those prejudices, however erroneous, or quite abjure his hereditary opinions upon religion, or government, or social order, without at the same time sacrificing a large portion of the better part of his own nature. Nor can I forget, that this general subject, which with us of the North is a question of political power, or of abstract right, affecting in no degree our security, and but remotely our social and pecuniary interests, is to the people of the South a question of the most vital interest, involving in its various relations the permanence of long cherished institutions, the economical arrangements on which they depend for sustenance, and even the safety of their firesides. It is not strange, that those who have so great a stake at hazard should be peculiarly sensitive upon this topic, and I am disposed to regard with charity a degree of passionate excitement in Southern gentlemen, when this subject is discussed, which I should deem censurable in Northern speakers.

For the humane Southern slaveholder, therefore, so long as he confines his system and its influences to his patrimonial limits, I have no reproaches, though I can neither assent to his opinions, nor sympathize in his feelings; and it is only when he defends the abuses of slavery, or invokes the aid of our national government to extend over a wide space the evils under which he, perhaps unconsciously, labors, that I am bound to regard him as an antagonist. I have consequently neither motive nor desire to discuss the moral or economical character of slavery, but I must be excused for pausing a moment to notice one argument in defence of slavery as a christian institution, which has been much oftener urged them answered.

Forgetting that christianity discourages all appeals to force, and is, emphatically, the religion of moral suasion and non-resistance, the advocates of Slavery triumphantly cite, as an explicit recognition and sanction of a servile relation analogous to modern Slavery, those passages of the New Testament, which enjoin upon the servant obedience to the commands of the master. But this argument is founded in a misapprehension of the fundamental principles of christian ethics—upon the assumption, that in this, as in other schemes of morality, the imposition of a *duty* or *obligation* upon one party confers a correlative *right* upon the other, coupled

with authority to enforce that right. Nothing can be farther from both the letter and the spirit of christianity than such a proposition as this.—The great rule "as ye would that men would do to you, do ye also to them likewise" is a generalization of the entire code of christian morality, and properly conditioned and understood, is of universal application, but it by no means authorizes the indiscriminate use of compulsory means to enforce obedience to its injunctions, and numerous particular cases are put where a duty is required to be performed to a party, who has not the shadow of a right to *demand*, still less, to *compel* the discharge of the obligation. "Therefore, if thy enemy hunger, feed him;" Does this passage authorize my enemy to demand of me bread,, and when I refuse it, to wrest it from me by force? "Him that taketh away thy coat, forbid not to take thy cloak also;" Does this injunction warrant my neighbor in stripping me, that he may clothe himself? "Whosoever shall smite thee on thy right cheek, turn to him the other also;" Did any sane man ever argue, that the unprovoked smiter might here find a justification for repeating the blow? "Resist not evil;" Is this command a license to do to others that evil, which we might not ourselves lawfully resist? He that defends Slavery by the authority of the New Testament must be prepared to maintain the affirmative of these questions, and he would reason as well in this, as in affirming that, because christianity enjoins upon the servant submission to the will of the master, it justifies the master in extorting unwilling obedience and unrequited labor from the slave.

But it has been said, that the South neither expects or desires the introduction of Slavery into the new territory, because its soil and climate are unsuited to the growth of those vegetable products, for the culture of which alone, slave labor can be advantageously employed.—Oregon, California and New Mexico, it is urged, lie without the natural limits of Slavery, and the institution cannot exist in those provinces, because it is excluded by physical conditions and the economical law of profit and loss which they dictate. It is assumed, that none of the sub-tropical plants usually cultivated by slave labor, rice, cotton, or the sugar-cane, will thrive in the new territories, which are adapted only to grain-growing, and pastoral husbandry, and will therefore be inhabited and tilled only by freemen. But the whole of this supposition is a fallacy. It is not true, that profitable Slavery is confined to any particular range of climate, or any particular species of agricultural industry. Did the law of profit and loss, as regulated by physical circumstances, forbid the existence of Slavery in the similar climates of Greece and Rome, in Anglo-Saxon Britain, or in ancient Tentonic and Scandinavian Europe? Does it forbid it, at this moment, in Mohammedan Turkey, from whose mild code of servile law the christian South might borrow useful lessons; in frozen Russia; in our own Maryland and Virginia and Kentucky? Sir, Slavery is everywhere profitable under the management of a prudent master, and especially so, in all new countries to which emigration is tending, and where the amount of labor to be done is greater than the force at hand to perform it. Doubtless it is true, that most men who inherit property in slaves diminish, rather than augment, their patrimonial estates. But this is just as true in relation to capital invested in any other way.—Capital employed in any industrial enterprise, in mining, in manufacturing, in agriculture, in navigation, in commerce, in a majority of cases fails to yield any increase. But does this prove, that these branches of industry are in themselves unprofitable? By no means. It only proves that most men are unthrifty managers, and it will not be found that, in general, capital invested in slaves, even in the Northern slave States, is more unprofitable than when employed in any other species of labor. It has been charged upon New England, and the other Northern States, as a reproach, that they abolished Slavery within their limits, only when they discovered it to be no longer a lucrative mode of investing capital. This is a historical error. Slavery was profitable in New England to the last, if pecuniary gain is profit, and it was abolished, not because it was contrary to the economical law of profit and loss, but because our fathers held it, as did *then* also the wisest and best of their Southern brethren, to be contrary to the law of conscience and of God.

I shall not charge upon any gentleman a design to deceive the House or the country by these representations, but if the disclaimer of a purpose to extend Slavery beyond its present limits is sincere, I still question whether gentlemen have the authority of their constituents for making it. I cannot doubt that it is the intention of a powerful party at the South to carry Slavery to latitude forty-nine, or just so far as it shall not be prohibited by some law of Congress, and I cannot look upon the late Compromise Bill as anything but an ingeniously devised scheme for accomplishing that object, under cover of an apparent respect for law. I have been told that some Northern gentlemen have been ill-advised enough to plume themselves upon some of the most objectionable features of that bill, as original inventions of their own.—This is doubtless an honest, perhaps a pardonable vanity, but under some circumstances, we are unable to trace the operations of our own minds, and therefore it is very possible, that

what was apparently a Northern suggestion may have been in fact prompted by a Southern inspiration.

But if, in truth, the South holds it to be undesirable or impracticable to introduce slavery into Oregon, or the whole of New Mexico and California, why offend and irritate the North, by insisting on a barren, disputed right, which it is never intended to exercise? I am answered, that pride forbids Southern men to yield in a controversy provoked by us of the North, and to capitulate in an issue, which we have forced upon them. But is not this agitation a necessary, foreseen and foretold result of the annexation of Texas, and did we force that flagitious measure upon you? Did we contrive that cunning and profligate artifice by which, while Texas was yet a Mexican State, and in spite of its own organic law, slavery was there extended and perpetuated? Did we plot the intrigues, whereby the revolt of Texas was first excited, and then nursed and encouraged until it ripened into a revolution? Did we furnish the men, the money and the [*materiel*, by which alone Texas was enabled to resist the arms of Mexico? Did a Northern Administration dispense the patronage, and participate in the corruption, by which annexation, in defiance of the solemn resolutions of almost every Northern State Legislature, and the almost unanimous opinion of the Northern people, was introduced into the Democratic platform by the Baltimore cabal, and afterwards, in palpable violation of the Constitution, carried through both Houses of Congress? Was it to gratify the ambition of a Northern Executive, or to extend the bounds of Northern institutions, that an unprovoked war has been waged with Mexico, two hundred millions of dollars worse than squandered, thousands of Mexican citizens butchered for defending their altars and their homes, and myriads of our citizens sacrificed to the accursed idol—military glory?

But, Mr. Chairman, let me be just. Let me not involve in sweeping and indiscriminate condemnation the whole people of the South, as participants in crimes, whose original guilt properly rests on the shoulders of a few Southern political aspirants, but the shame of whose consummation is the damning and irretrievable disgrace of the Democracy of the North. A majority of the Baltimore Convention of 1844, which pledged the party to the annexation of Texas, and rejected Mr. VAN BUREN, because, in emerging from the cloud in which his political opinions are usually shrouded, he had, mistaking the signs of the times, *accidentally* come out on the Northern side of this question, was composed of Northern Democrats; the issue was fairly made in the Presidential election of that year, and (with the exception of enlightened Pennsylvania, which sustained Mr. Polk as a *tariff-man*) the vote of every Northern Democratic State was given to the nominee of the Baltimore Convention, expressly as the apostle of annexation; and upon the final vote in Congress, every Northern Democratic Senator, and every Northern Democratic Representative save three, recorded his suffrage in favor of this great wrong.

On the other hand, it should never be forgotten, that the Southern Whigs as a body, and with very few exceptions, in resisting, in spite of sectional prejudice, and the denunciations of a majority of their immediate fellow citizens, a policy which, though speciously recommended by considerations of local advantage, they held to be a violation of national right, and a sacrifice of national interest, exhibited, to their everlasting honor, a generosity, an incorruptible firmness, and a degree of political virtue, of which the North, unhappily, has given but few examples.*

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*The most important votes in Congress on the question of annexation were as follows:

On the 15th of March, 1844, Mr. Winthrop moved the following resolution in the House of Representatives:—

Resolved, That no proposition for the annexation of Texas to the United States ought to be made, or assented to, by this government.

Upon the question of suspending the rules for the purpose of receiving the resolution,

Every Northern, and *three* Southern Whig members, with *three* Democrats only (Messrs. R. D. Davis, Potter and J. A. Wright) voted in the affirmative.

Every democrat (except as above) including Messrs Brinkerhoff, Preston King, Rathbun and other prominent Barnburners, with *fifteen* Southern whigs, voted in the negative.

On the 11th of June, 1844, after the rejection of Mr. Tyler's Annexation Treaty by the Senate, the President sent a mes age to the House of Representatives, urging that body to take immediate steps towards effecting the object which he had failed to accomplish by treaty.

With a view of preventing any action on the subject, Mr. John P. Kennedy, a Southern whig, moved to lay the communication on the table.

Upon this motion, *every* whig member, with the exception of *six* Southern gentlemen, voted in the affirmative; *every* democratic member, Northern as well as Southern, including Messrs. Brinkerhoff, R. D. Davis, Hamlin, Preston King, Norris and Rathbun, voted in the negative.

On the final passage of the bill, as amended by the Senate, Feb. 28, 1845, the vote in the House of Representatives was as follows:—

In the affirmative, *every democratic member*, northern as well as southern, excepting Messrs. R. D. Davis, John P Hale and E. R. Potter, but including Messrs. Brinkerhoff, Dillingham, Hannibal Hamlin, Preston King, Rathbun, &c.

In the negative, *every whig member*, Southern as well as Northern, with the single exception of Mr. Dellett of Alabama.

It will thus be seen, that though a few Southern

But does not this question involve some considerations of fairness and duty to the North?—Has it not been the uniform policy of this government to strengthen the slaveholding, at the cost of the free States? Have we not yielded every doubtful question of title upon the Northern frontier, and insisted on every semblance of claim upon the Southern border? Is it not notorious, that the war of 1812, though declared by us, was waged solely as a *defensive* war, lest aggressive operations should result in strengthening the free States by the conquest of Canada? Would the treaty of Washington, so wisely negotiated by Webster, have been sanctioned by a Southern President, if it had been a Southern, instead of a free State, whose claims were compromised? Why was our claim to Northern Oregon so readily relinquished? Was it because Mr. Polk thought our title up to 54o 40, which he surrendered without an equivalent, less clear than the right of Texas to the valley of the Rio Grande, to sustain which, he engaged in a war, in defiance of all the forms of the Constitution? Was it because he believed Vancouver's Island, the noble harbors, and all the fertile territory North of 49 degrees, less valuable than the "stupendous deserts" between the Nueces and the Rio Bravo? Was it because he held a war with powerful England unlawful, but with puny Mexico, praiseworthy! No sir; it was because he and his advisers sought to clip the wings of the North, and plume the pinions of the South. And yet this was patiently borne.

The constitution was shamelessly trampled under foot, and the blackest and most gigantic scheme of political corruption, that ever disgraced a free people, was organized to sustain Southern ascendency by the annexation of Texas.—And this has been patiently borne. An unjust and disgraceful war has been waged with a sister republic, a national debt incurred, that will hang like a millstone upon the necks of our children for half a century, and thousands of lives sacrificed by pestilence and the sword, to gratify the ambition of Southern prize-fighters and politicians. This, too, has been patiently borne; and after all this, I ask, is it fair to insist that the paltry 'indemnity' which we have received for all this loss of treasure and blood and honor shall enure to the exclusive benefit of the South? So far as Slavery already exists beneath the ægis of your State constitutions, we seek not to interfere with it. We leave its abolition, or its maintenance, to your own consciences and the suggestions of your enlightened self-interest; but we must not, and will not, be asked to aid you in extending it; in forcing upon free soil a curse, which you have often complained, that the cupidity of the mother country, in your age of colonial dependence, forced upon you.

Upon this point, the North is no longer to be reasoned with. It has, to use a parliamentary phrase, moved and sustained the previous question, and its will can be defeated only by the same means of congressional corruption, by which the annexation of Texas was effected.—The *people* of the North cannot again be hoodwinked or cajoled, and, as I believe and trust, they are prepared to do what they ought to have done when that great outrage was perpetrated—to *resist*, namely, to every extremity, and by all the lawful means, that God and nature have put into their hands.

There is a class of Northern politicians who seek every opportunity of parading their obsequious subserviency to the will of the South, and their contempt for the sectional interests of their own people; who prefer Presidential candidates pledged to ultra Southern interests and policy, and who, had the choice of the late Baltimore Convention fallen upon Slatter and Williams, would have hailed the nomination with as unhesitating devotion as they have that of Cass and Butler. Such men abound in every democratic State; in frozen New England, in the fertile West, throughout the middle States; and whenever the occasions of Southern gentlemen gentlemen demand a curb for Northern freedom of action and speech, in the shape of a gag-rule, or a motion for the previous question, or to lay upon the table, at an ungracious moment, they have only to signify their pleasure to some son of New Hampshire, who has studied political ethics under Hubbard and Hill, or some Pennsylvania broadhorn, who believes in Polk *and* the tariff of '42.

If then, by any chance, there are democrats of this stamp in the present House of Representatives, it is probable enough, that, by the use of familiar appliances, Congress may yet be induced to adopt the Compromise Bill or some other equally insidious and mischievous scheme; but its passage will produce a tornado of popular indignation, to which all former tempests will be but zephyrs. The entire Northern people will demand repeal, and not a representative will be returned to the next Congress from the free States, who is not pledged to that measure.—There are abundant and unmistakable tokens of a fixed determination throughout the North to consent to no arrangement, by which one foot of American soil now legally or actually free

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Whigs at first favored annexation, they were at last all but unanimously opposed to the measure.

In the Senate, Feb. 26, 1845, on the final passage of the bill, *every Democratic Senator* voted in the affirmative; *every Whig Senator*, excepting Messrs. Johnson and Merrick, but including *twelve other Southern Whigs*, in the negative.

shall be contaminated by the spread of Slavery, and the movement which has now commenced will go on, gathering strength, until it shall have accomplished its object—the legal restriction of Slavery, namely, to its present limits—or have rent this Union into fragments. When I speak of unequivocal tokens, I do not refer to certain late remarkable movements among the democratic party-leaders in New York and elsewhere. These are important, not as *expressions*, but as *indications*, of popular opinion. The instigators of these proceedings are very far from being the originators of the feeling, which now controls the masses of the North, except in so far as their own former outrageous treachery to Northern rights and interests has contributed to provoke it. They are dexterously seizing and converting to their own corrupt and selfish purposes an honorable enthusiasm, which they derided as a sickly sensibility or a narrow prejudice, condemned as an unjust and uncharitable hostility to the institutions and prosperity of the South, and denounced as a virtual infraction of the compromises of the constitution, until, in its growing strength, it threatened to overwhelm them, and now they are fanning it with an assiduity that quite puts to the blush the flagging zeal of the new recruit from the Granite State, and the ancient champion from the Western Reserve.

The leaders of the barnburner faction, when in Congress, have uniformly resisted that right so dear to freemen, the right of petition*; they advocated the annexation of Texas†; they sustained and justified the Mexican war, with a full knowledge of the base purposes for which it was provoked; and now they offer to atone for all these wrongs, by opposing the further extension of slavery, whose area they have done so much to enlarge, and by complimenting with the hollow mockery of a fruitless nomination that cast-off idol, the Dagon of their ancient worship, upon whom the South, in the convention of 1844, bestowed a fit reward for a life of slavish devotion to its interests, by turning him into the wilderness as a scapegoat laden with a burden heavy enough to crush an Atlas—the sins of the democracy. Such are the men, who are now insulting the understandings of Northern freemen, by courting their suffrages for a presidential candidate, who, when Vice President, gave the casting vote in the Senate in favor of a bill forbidding "postmasters to deliver to any person whatever" papers touching the subject of Slavery, in the slave states,‡ who bought the support of the South by pledging himself in advance to veto any "attempt on the part of Congress to abolish Slavery in the District of Columbia",§ and who sent a public armed vessel to a port in Connecticut, to kidnap the negroes of the Amistad.

And with all this, they have not the virtue and the manhood to avow and regret their former errors. They profess reformation without repentance, glory in their shame, and with hands still unwashed of the uncleanness of Texan annexation, and red with the blood of an unholy war, they proclaim themselves the chosen apostles of human liberty. Out upon the bald hypocrisy of these whited sepulchres! The sacred cause of freedom needs no such allies as these.

But let us return to the main question I am discussing. Besides the obvious moral and political considerations, which forbid the introduction of Slavery into the new territory, there is another, that has great weight with the people of the North. It is, that in their opinion, any compromise, by which Slavery shall be tolerated at all in New Mexico and California, involves a repetition of the Texas iniquity. A new rebellion will be fomented, a new revolution proclaimed, a new scheme of annexation plotted, and another war of conquest and plunder waged.—Those events are already foreshadowed in the reported movements towards establishing the Republic of the Sierra Madre, and they can be prevented only by prohibiting the extension of Slavery, which has been the motive and the inducement for all the national crimes perpetrated or plotted on our Southern and Southwestern frontier.

Under these circumstances, what is the duty of Congress? To shrink from the responsibility of determining this great question, and devolve it upon a tribunal, whose province it is to declare not what the law shall, and ought to be, but what it is? The power of Congress to legislate on this subject is unquestionable, and the duty is as clear as the right. A vast majority of the people demand the exercise of this power, and the popular will must and will be obeyed. No bill for the organization of government in the new territories can ever pass this House, without some *positive* provision on this subject, and no such mixed question of law and fact, as that of the present and future legal existence of Slavery in Mexico, will ever be submitted to the

* At the first session of the 28th Congress a strenuous effort was made to rescind the notorious 21st rule, which forbade the reception of petitions concerning the abolition of Slavery. On the 27th and 28th of February 1844, numerous votes were taken on the question, and Messrs Jacob Brinkerhoff, Preston King, Norris, and other *free soil* democrats, are recorded as having voted to sustain that infamous rule, eight times in those two days.

† See previous note. p 9.

‡ Congressional Globe, 3 vol. p. 416.

§ President Van Buren's inaugural address March 4th, 1837.

arbitrament of our national judiciary.

Sir, I hope the day is not far distant when the people of these provinces will need no legislation of ours. With the British possessions on the North West coast, they will soon be strong enough to found and maintain a Republic of their own, and were they to declare their independence of this government tomorrow, I for one should be ready to vote for its recognition. But while they are preparing for this desirable event, let us give them the blessings of a free government, promote emigration to their shores, cherish and defend them, and when they no longer require the fostering care of the mother country, let us bid them God speed, and dismiss them. Why should not the unnatural connection between us and these remote regions be severed? What common interests has Boston with the Bay of San Francisco, or New York with Monterey, or Charleston and Savannah and New Orleans with Puget's sound and the mouth of the Columbia? True, their people have the same sun and light and air and common humanity and religion and God, but their social and pecuniary relations are as diverse from each other as are the interests of the camel drivers of the desert from those of the ermine-hunters of Siberia. Oregon and California lie so far towards the setting sun, that they lose themselves in the East. Separated from us by an eternal and impassable barrier of waste and mountain, they are united to the coast of Asia by the freely navigable basin of the Pacific, as are our eastern shores to the European Continent by the Atlantic sea. From the ties of common blood and speech and faith, their population will sympathize with American and European civilization and christianity, but they belong to another geographical and political system, and their natural relations and interests bind them indissolubly to the oriental world. What, then, God hath joined together, let not man put asunder!